

Appl. Serial No.: 10/718,511
Amendment dated December 28, 2004
Reply to Office action of November 5, 2004

REMARKS

Claims 1-20 remain in the application. By this amendment, claim 9 has been amended. New claim 21 has been added. The present application as originally filed supports these amendments. No new matter has been added.

Indication of Allowance

The applicant gratefully acknowledges the indication that claims 1-8 are allowable.

Claim Rejections Under 35 U.S.C. 112

Claims 9-20 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite because the limitation of "the pair of heating resistors" in claim 9 does not have antecedent basis. In response, claim 9 has been amended to remove "pair of" so that the limitation of "the heating resistors" has proper antecedent basis.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 9-20 under 35 U.S.C. 112.

Claim Rejections Under 35 U.S.C. 102

Claim 9 has been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,285,673 to Drexel et al. Applicant respectfully traverses this rejection, since Drexel et al. does not disclose or suggested a heated sensor tube having a plurality of inner tubes, as recited by claim 9.

Drexel et al. instead discloses a sensor 10 including a heated sensor tube assembly 19 and a bypass tube 17 connected in parallel with the sensor tube assembly 19. Multiple passageways in the form of a flow splitter section 18 are provided in the bypass tube 17, as shown in FIG. 2 of

Appl. Serial No.: 10/718,511
Amendment dated December 28, 2004
Reply to Office action of November 5, 2004

Drexel et al. FIG. 3 of Drexel et al., shows an enlarged view of the heated sensor tube assembly 20 including a sensor tube 22 and heater coils 24, 26 and 42. However, Drexel et al. does not disclose or suggest placing the flow splitter section 18 in the sensor tube 22.

Claim 9 has been amended to more clearly define the presently claimed flow rate sensor. In particular, claim 9 has been amended to recite that heating resistors are attached to the sensor tube for heating the sensor tube, and the plurality of inner tubes are provided within the heated sensor tube (as opposed to the non-heated bypass tube 17 shown in Drexel et al.).

Applicant respectfully requests reconsideration and withdrawal of the rejection of independent claim 9 under 35 U.S.C. 102(b) as being anticipated by Drexel et al.

Claim Rejections Under 35 U.S.C. 103

Claims 10-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Drexel et al. in view of U.S. Patent No. 5,792,952 to Ritchart.

Claims 10-20 depend from claim 9, which has been amended. As discussed above, Drexel et al. does not disclose or suggest a heated sensor tube having a plurality of inner tubes provided within the heated sensor tube.

Applicant respectfully submits that Ritchart also does not disclose or suggest a heated sensor tube having a plurality of inner tubes provided within the heated sensor tube. Ritchart does show a U-shaped sensor tube that is heated, but does not disclose or suggest a heated sensor tube having a plurality of inner tubes.

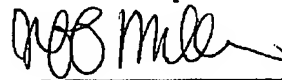
Applicant respectfully requests reconsideration and withdrawal of the rejection of dependent claims 10-20 under 35 U.S.C. 103(a) as being unpatentable over Drexel et al. in view of Ritchart.

Appl. Serial No.: 10/718,511
Amendment dated December 28, 2004
Reply to Office action of November 5, 2004

Conclusion

In view of the amendments and remarks submitted herein, applicant believes that all claims pending in the application are in condition for allowance and respectfully requests such allowance. If a telephone conference will expedite prosecution of the application the Examiner is invited to telephone the undersigned. If additional fees are required, or otherwise necessary to cover any deficiency in fees already paid, authorization is hereby given to charge our deposit account no. 50-1133.

Respectfully submitted,
McDermott Will & Emery LLP



Date: December 28, 2004

Toby H. Kusmer, P.C., Reg. No. 26,418
Jeffrey J. Miller, Reg. No. 39,773
Attorneys for Applicants
28 State Street
Boston, MA 02109-1775
Telephone: (617) 535-4000
Facsimile: (617) 535-3800